



returned to full-time, modified duty on March 29, 2004, and resumed his regular employment duties on May 1, 2004.

In an August 27, 2004 report, Dr. John S. Holmes, an attending Board-certified orthopedic surgeon, advised that appellant's right knee condition was permanent and stationary. He noted that appellant had been performing his job without difficulty or complaints. Dr. Holmes also reported that the surgical scar was well healed, there was good range of motion, no effusion and the ligaments were intact. He advised that appellant did not need any specific restrictions with respect to his work activities. However, Dr. Holmes felt that provisions should be made for future medical care, but he did not schedule appellant for a return appointment.

On November 20, 2006 appellant filed a claim for a schedule award. He did not submit any evidence of permanent impairment; therefore, the Office referred appellant for evaluation by Dr. Borislav Stojic, a Board-certified orthopedic surgeon, who examined appellant on February 23, 2007.

The Office referred the record, including Dr. Stojic's February 23, 2007 examination findings, to a medical adviser for a determination of whether appellant had an employment-related permanent impairment. In a report dated March 30, 2007, the Office medical adviser found that appellant had a seven percent permanent impairment of the right lower extremity. Based on Dr. Stojic's recent examination findings, the medical adviser noted that there was no range of motion deficit or impairment due to atrophy or weakness. However, appellant's pain complaints represented a four percent impairment of the right lower extremity. The medical adviser noted that applying a diagnostic-based rating method would yield a higher overall impairment. This took into account appellant's February 3, 2004 partial lateral meniscectomy (two percent) and his patellofemoral arthritis (five percent), for a combined right lower extremity impairment of seven percent.<sup>1</sup>

By decision dated April 20, 2007, the Office granted appellant a schedule award for seven percent impairment of the right lower extremity. The award covered a period of 20.16 weeks from February 3 to June 24, 2006.

### **LEGAL PRECEDENT**

Section 8107 of the Federal Employees' Compensation Act set forth the number of weeks of compensation to be paid for the permanent loss of use of specified members, functions and organs of the body.<sup>2</sup> The Act, however, does not specify the manner by which the percentage loss of a member, function or organ shall be determined. To ensure consistent results and equal justice under the law, good administrative practice requires the use of uniform standards applicable to all claimants. The implementing regulations have adopted the American Medical Association, *Guides to the Evaluation of Permanent Impairment* as the appropriate standard for

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<sup>1</sup> There was no impairment associated with the February 3, 2004 cruciate ligament reconstruction as there was no evidence of residual instability.

<sup>2</sup> For a total loss of use of a leg, an employee shall receive 288 weeks' compensation. 5 U.S.C. § 8107(c)(2) (2000).

evaluating schedule losses.<sup>3</sup> Effective February 1, 2001, schedule awards are determined in accordance with the A.M.A., *Guides* (5<sup>th</sup> ed. 2001).<sup>4</sup>

### ANALYSIS

The Office medical adviser reviewed Dr. Stojic's February 23, 2007 examination findings and properly applied those findings to the A.M.A., *Guides*. The most advantageous method of rating appellant's lower extremity impairment was by combining his patellofemoral arthritis impairment (five percent) with the diagnosis-based estimate (DBE) rating for the partial lateral meniscectomy (two percent) performed on February 2, 2003.<sup>5</sup> Pursuant to Table 17-31, which rates arthritis impairments based on roentgenographically determined cartilage intervals, usually an x-ray finding of arthritis is necessary for evaluation of impairment. However, a footnote to Table 17.31 at page 599 states:

“In an individual with a history of direct trauma, a complaint of patellofemoral pain and crepitation on physical examination, but without joint space narrowing on x-rays, a ... five percent lower extremity impairment is given.”

This arthritis impairment is properly combined with appellant's diagnosis-based impairment rating for partial lateral meniscectomy of two percent under the cross-usage chart at Table 17-2.

The pain and/or sensory impairment due to the lower extremity peripheral nerve injury (Grade 3 involving the femoral nerve, four percent) represented a lesser impairment than the pain attributable to patellofemoral arthritis (five percent).<sup>6</sup> Therefore, the Office medical adviser properly recommended that the combined diagnosed-based estimate and arthritis impairment rating form the basis of appellant's schedule award. The seven percent impairment rating provided by the Office medical adviser on March 30, 2007 is consistent with Dr. Stojic's examination findings and conforms to the A.M.A., *Guides* (5<sup>th</sup> ed. 2001). As such, the Office medical adviser's impairment rating constitutes the weight of the medical evidence.<sup>7</sup> Appellant has not presented any evidence that he has greater than a seven percent impairment of the right lower extremity.

### CONCLUSION

Appellant has not demonstrated that he has greater than a seven percent impairment of the right lower extremity.

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<sup>3</sup> 20 C.F.R. § 10.404 (2007).

<sup>4</sup> Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.2 (June 2003).

<sup>5</sup> See A.M.A., *Guides* 544, Table 17-31; A.M.A., *Guides* 546, Table 17-33.

<sup>6</sup> See A.M.A., *Guides* 482, Table 16-10; A.M.A., *Guides* 552, Table 17-37.

<sup>7</sup> See *Bobby L. Jackson*, 40 ECAB 593, 601 (1989).

**ORDER**

**IT IS HEREBY ORDERED THAT** the April 20, 2007 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 18, 2007  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge  
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge  
Employees' Compensation Appeals Board